

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

December 15, 2009

Charles R. Fulbruge III  
Clerk

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No. 09-50151  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARIO CABRERA-DE LEON,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:08-CR-212-1

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Before KING, JOLLY, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Mario Cabrera-De Leon (Cabrera) appeals the 70-month sentence imposed by the district court following his conviction for illegal reentry into the United States after having been deported. Cabrera argues that his sentence was unreasonable because it was greater than necessary to meet the sentencing goals of 18 U.S.C. § 3553(a).

When the district court imposes a sentence within a properly calculated guidelines range and gives proper weight to the Guidelines and the § 3553(a)

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

factors, this court gives “great deference to that sentence and will infer that the judge has considered all the factors for a fair sentence set forth in the Guidelines in light of the sentencing considerations set out in § 3553(a).” *United States v. Campos-Maldonado*, 531 F.3d 337, 338 (5th Cir.) (internal quotation marks and citation omitted), *cert. denied*, 129 S. Ct. 328 (2008). “A discretionary sentence imposed within a properly calculated guidelines range is presumptively reasonable.” *Id.*

The Guidelines expressly permit the district court to consider a defendant’s prior conviction for an increase in offense level under U.S.S.G. § 2L1.2 and for calculating criminal history. *See* § 2L1.2, comment. (n.6). Further, this court has rejected the argument that a presumption of reasonableness should not be afforded a guidelines range resulting from application of § 2L1.2 because such application amounts to impermissible double counting. *United States v. Duarte*, 569 F.3d 528, 529-30 (5th Cir.), *cert. denied*, 130 S. Ct. 378 (2009).

Cabrera has not shown that the sentence imposed by the district court was substantively unreasonable. Although his instant offense was not necessarily a crime of violence, Cabrera has a history of repetitive and undeterred criminal conduct. Accordingly, his sentence is **AFFIRMED**.